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4.421 Military Leave / Reemployment Rights

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Type of Policy <input checked="" type="checkbox"/> University <input type="checkbox"/> <i>Campus</i> <input type="checkbox"/> <i>Department/Unit</i> <input type="checkbox"/> Interim		Military Leave/ Reemployment Rights Policy 4.421	
Human Resource Policies		Effective date: May 1, 2012	
Policy History:	Approved by:	Resolution #	Date:
Approved	Board of Governors	2.8.03:7	February 8, 2003
Revised	Chancellor	N/A	May 1, 2012
Responsible Office:	Responsible Administrator:	Contact information:	Applies to:
Office of Human Resources	Director of University Human Resources	937-769-1375	All Employees

I. Introduction and Purpose

Antioch University (“AU” or the “university”) supports employees who serve military duty and complies with all current federal and state requirements to allow employees the opportunity to fulfill their military requirements without impact to their careers at the university. AU’s policy on military leave and reemployment rights follows the required guidelines of Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA). Questions regarding military leave of absence or reinstatement following a leave should be directed to the Director of the Office of Human Resources (“HR”).

II. Summary of USERRA

A. USERRA is the federal statute that governs military leave. It applies to persons who serve in the “uniform services,” which includes the Army, Navy, Marine Corps, Air Force, Coast Guard, the Public Health Service commissioned corps, as well as the reserve components of each of these services.

B. Basic Provisions/Requirements. USERRA prohibits employment discrimination on the basis of past military service, current military obligations, or the intent to serve in the military. This prohibition applies to all aspects of employment including selection, job assignment, compensation, discipline, reemployment, retention, promotion, or any benefit of employment. In addition, an employer may not retaliate against employees for requesting or taking a military leave of absence or exercising their rights under USERRA.

C. Reemployment Criteria. Under USERRA, AU will extend reemployment rights for up to five (5) years to individuals who have been absent from work due to their service in the military, if those service-members meet the following five criteria.

1. The individual's absence from AU must have been caused by the individual's service in the uniformed services;
2. The individual must have provided advanced notice to AU of the military leave, unless such notice was precluded by military necessity or was otherwise impossible or unreasonable;
3. The individual's cumulative period of military service must not have exceeded five (5) years. (However, this five-year limitation does not include time off for annual training, involuntary recall to active duty, inactive retention on active duty, voluntary or involuntary active duty in support of war, national emergency or certain operational missions, such as the Homeland Defense operational mission and reservist call up);
4. The individual must not have been released from service under dishonorable or other punitive conditions; and
5. The individual must have applied to AU for reemployment within the time limits for returning to work.

D. Reemployment Timelines. In order to be eligible for reemployment under USERRA, a returning service-member must timely return to work or reapply for his or her position based on the length of military service.

1. For service of 1-30 days, the employee must report to work by the beginning of the first regularly scheduled workday at the university that falls eight (8) hours after the employee returns home;
2. For service of 31-180 days, the employee must submit an application for reemployment to HR within 14 days after the completion of military service;
3. For service of 181 days or more, the employee must submit an application for reemployment to HR within 90 days after the completion of military service.

4. These reporting or application deadlines may be extended for up to two (2) years for individuals who are hospitalized or convalescing due to a service-connected injury or illness.

E. **Health Insurance Benefits.** Employees on a military leave of absence are eligible for health insurance continuation benefits under COBRA for up to 24 months. Employees electing continuation coverage are required to pay up to 102 percent of the full premium for the coverage selected. For military leaves of absence less than 31 days, AU will cover the employer share of the employee's health insurance benefits under the same terms and conditions as if the employee were actively at work. Employees are responsible for paying the employee share of the premium, either through payroll deduction or direct payments to the university. When the employee returns from military service, AU will reinstate health insurance coverage in the same manner as the university would with an employee returning from an unpaid leave of absence.

III. General Guidelines. Employees must provide the university with written or verbal notice of their military orders and follow the proper leave procedures prior to departing for military service.

A. Requests for military leave must be submitted in writing to the immediate supervisor or dean (faculty) and the Director of the Office of Human Resources ("HR"). The request should be made as far in advance as possible.

B. When an employee goes on military leave, the supervisor in coordination with HR should change the employee's status to unpaid leave for that time period. In addition, a non-exempt employee's time report form(s) should be submitted with no hours recorded during the military leave period but with a notation in the margin that the employee is on military leave.

C. Employees eligible for benefits will receive the difference between regular base pay and military pay for a maximum period of two weeks per calendar year for temporary, annual, or civil emergency duty.

D. Payment will not be made for duty lasting less than seven consecutive calendar days, such as weekly drill sessions. Employees may elect to use vacation or personal leave to cover any portion of the leave that is unpaid; however, employees are not required to exhaust their accruals before the start of the military leave of absence as is required for other leaves of absences.

E. The same benefits will be granted to employees on military leave as to other employees who miss work due to a leave of absence.

F. The university may hire a replacement while employees are on military leave. The replacement is a term appointment and the offer agreement and any subsequent renewal agreements must clearly state the term of the appointment. The replacement worker may be eligible for benefits depending on the type and length of the assignment. All letters or agreement must clearly state the terms and conditions of employment and that the position will end upon the return of the employee on military leave. Upon return of the employee from military leave, the replacement worker's employment with the university will cease.

G. Under this policy and USERRA, when employees are reemployed or return to active work status, they are entitled to the seniority and other rights and benefits determined by seniority that the person had on the date of the commencement of service in the uniformed services plus the additional seniority and rights and benefits that such person would have attained if the person had remained continuously employed.

H. Under this policy and USERRA, it is unlawful to discharge an individual, except for cause, for one year after being reemployed or return to active work status if that employee served in the military for more than 180 days. A returning employee is protected from discharge without cause for 180 days if the period of service was for less than one year but more than 30 days.

I. Reemployment rights are based on the assumption that circumstances have not so changed as to make such reemployment impossible or unreasonable and do not impose an undue hardship on the university. In such case as in compliance with USERRA reemployment is not a guarantee.

J. Employees should contact Human Resources if they have additional questions regarding this policy or their right to Military Leave under USERRA or state law.